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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,288	09/19/2003	Naheed Visram	12361-10US-1 JEL	1520
20988	7590	11/02/2005	EXAMINER	
OGILVY RENAULT LLP 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			VRETTAKOS, PETER J	
			ART UNIT	PAPER NUMBER
			3739	
DATE MAILED: 11/02/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/666,288	<b>Applicant(s)</b> VISRAM ET AL.	
	<b>Examiner</b> Peter J. Vrettakos	<b>Art Unit</b> 3739	
	-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --		

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 14 October 2005.

2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 18-31 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 18-31 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All    b) ☐ Some \* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 5-7-04, 7-15-04.

4) ☐ Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lesh et al. (6,650,923) in view of Laufer et al. (6,106,520).

Lesh discloses a method of surgical perforation (puncture, pierce) with a system (col. 2:59-60) comprising sheath (74), dilator (20), needle (44), and pressure sensor for measuring blood pressure in both atria (col. 9:4-10) subsequent to locating the fossa ovalis (col. 3:7-17) in the atrial septum through radiopaque (col. 8:57-64, col. 7:27) staining (col. 4:29-33; col. 9:12-16 – *after the puncture*). See figures 1,7-11.

Lesh intimates the use of RF energy during the procedure in col. 2:20-23, and further discloses energy emitters (47). However, an express disclosure of using energy emitters as a part of the perforating/puncturing/piercing procedure is lacking.


Laufer discloses in an analogous device for perforating atrial tissue, a needle electrode (20; 54 is the electrode – see figure 3) and therefore the method of concurrent needle penetration and energy application to create a region of “reversible tissue damage”. See figure 1. Multiple locations are targeted (col. 5:49-55).


Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to modify Lesh in view of Laufer by including energy application in addition to the fossa ovalis perforation as part of the procedure to provide access to the left atrium. The motivation would be to "eradicate inappropriate electrical pathways" as posited in Lesh col. 2:20-23, as well as to create reversible tissue damage (as opposed to irreversible) as posited by Laufer in col. 5:55-60.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pete Vrettakos  
October 25, 2005  


  
BEVERLY M. FLANAGAN  
PRIMARY EXAMINER